

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

F.A.O No. 4599 of 2010 (O&M)

Date of Decision:- 30.11.2017

Sahun & Ors.

.... Appellants

Versus

Bajaj Allianz General Insurance Co. & Ors.

.... Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: None for the appellants

Mr. Ranjan Bhargava, Advocate, for
Mr. Vishal Aggarwal, Advocate, for respondent No.1.

AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed by the driver and owner of tractor bearing registration No. HR-27A-1162. The issue raised in the present appeal is whether the driver holding driving license for LMV and HMV would be authorised to drive the tractor or not.

In a motor vehicular accident that occurred on 21.11.2007, Jiley Singh lost his life. In the said accident the tractor referred above was the offending vehicle. FIR No. 278, dated 22.11.2007 was registered at Police Station Tauru.

The legal heirs of the deceased filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short,'the Act'). The Tribunal after appreciating the facts and considering the evidence produced before it awarded a sum of Rs.5,39,000/- along with interest @6% per annum. The Tribunal while passing the award dated 13.05.2010 awarded recovery rights to the insurance company on the ground that the driver of

the tractor was holding a license for LMV and HMTV and he was not authorised to drive the tractor.

Aggrieved of the recovery rights, the present appeal has been filed by the appellant.

Learned counsel for the appellant did not appear on 22.09.2017. On 29.09.2017, 09.10.2017 and 12.10.2017, the appeal was adjourned on the request made on behalf of counsel for the appellant. Even today none has appeared. Since the issue involved in the present case is squarely covered by the decision of Hon'ble Apex Court no useful purpose would be served to adjourn the appeal.

The Hon'ble Apex Court in **Mukund Devangum Vs. Oriental Insurance Company, 2017(7) Scale 731** has held no separate endorsement is needed for the driving license for driving the transport/ goods carriage of the same category for which the driver is possessing the driving license.

In the present case, it has not been disputed that the driver was not possessing a driving license for LMV and HMTV. The tractor falls within transportation of category of light vehicles (LMV). In such circumstances, it cannot be held that the driver was not having the valid driving license.

The Hon'ble Apex Court in the latest decision of **Sant Lal Vs. Rajesh & Ors. 2017 AIR (SC) 4054** has held:-

“4. We have answered the question that driver having licence to drive light motor vehicle can drive such a transport vehicle of LMV class and there is no necessity to obtain separate endorsement, since tractor attached with the trolley was

transport vehicle of the category of light motor vehicle. Hence, there was no breach of the conditions of the policy.”

In the above decision, it has been held that on driving license no separate endorsement is required for driving the tractor.

In view of the above decisions cited above, the appeal is allowed and the recovery rights given by the Tribunal to the insurance company are quashed.

The appeal is accordingly disposed of.

November 30, 2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No